

Message Text

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R 261221Z AUG 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC 1362
INFO AMEMBASSY BERLIN
AMEMBASSY BRUSSELS
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USBERLIN
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 03 BONN 15571

USEEC

E.O. 11652: XGDS-1
TAGS: PGOV, BQG, EEC
SUBJECT: METHOD OF REPORTING TO EUROPEAN PARLIAMENT
NAMES OF BERLIN MEMBERS OF FRG DELEGATION

REFS: (A) STATE 139661; (B) STATE 124939;
(C) 76 BONN 11230; (D) 76 BONN 4712;
(E) 76 BONN 2774

BEGIN SUMMARY. WHEN REPORTING THE DRAFT EUROPEAN
PARLIAMENT (EP) ELECTIONS BILL IN MARCH, TWO BUNDESTAG
COMMITTEES RECOMMENDED THAT THE MEMBERS FROM BERLIN NOT
BE "GESONDERT" (DISTINGUISHED OR SEPARATED) FROM THE
OTHER MEMBERS OF THE FRG DELEGATION IN THE REPORT MADE
TO THE EP OF THE RESULTS OF THE FRG ELECTIONS TO THE EP.
THE BRITISH HAVE RAISED THIS MATTER SEVERAL TIMES SINCE
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APRIL IN THE BONN GROUP AND THE FRG REPS INFORMED US IN
JULY THAT A "FOOTNOTE" SOLUTION SHOULD BE POSSIBLE,
I.E. THE MEMBERS FROM BERLIN WOULD BE LISTED TOGETHER
WITH THE FRG MEMBERS BUT THAT A FOOTNOTE WOULD SHOW
THEY WERE SELECTED BY THE SPECIAL PROCEDURE FOR BERLIN.

ON AUGUST 16, HOWEVER, WE WERE INFORMED IN THE BONN

GROUP THAT THE FRG CANNOT ACCEPT THIS DISTINCTION AND THAT THE FRG VIEW IS THAT THE NEED FOR A DISTINCTION BETWEEN MEMBERS FROM BERLIN AND OTHER MEMBERS OF THE FRG DELEGATION TERMINATES UPON COMPLETION OF THE SPECIAL SELECTION PROCEDURE. THE ALLIED BONN GROUP REPS DISCUSSED THIS SUBJECT ON AUGUST 24 AND AGREED TO RECOMMEND TO CAPITALS THAT WE RAISE THE MATTER AGAIN IN THE BONN GROUP, SAYING THAT SOME VISIBLE DISTINCTION SHOULD BE KEPT AND THAT THE FOOTNOTE IDEA SEEMS A REASONABLE ONE.

ACTION REQUESTED: SEE PARAGRAPH 15. END SUMMARY.

1. OVER THE LAST SEVERAL MONTHS, THE UK REP IN THE BONN GROUP HAS ASKED FOR FRG VIEWS ON THE RECOMMENDATION OF THE BUNDESTAG INTERIOR AND LEGAL COMMITTEES THAT, WHEN REPORTING TO THE EUROPEAN PARLIAMENT (EP) THE RESULTS OF THE ELECTIONS TO THE EP, THE PRESIDENT OF THE BUNDESTAG SHOULD NOT SHOW THE BERLIN MEMBERS SEPARATELY IN THE LIST OF MEMBERS OF THE FRG DELEGATION. A COPY OF THE UK REPORT ON THE SUBJECT WAS POUCHED TO EUR/CE AND USBER ON APRIL 5, 1978.

2. AT THE JULY 18 BONN GROUP MEETING, THE FRG LEGAL ADVISER GAVE THE IMPRESSION THAT THE FRG COULD AGREE TO HAVE THE NAMES OF THE BERLIN MEMBERS FOOTNOTED WITH A NOTE SHOWING THAT THEY WERE ELECTED IN ACCORDANCE
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WITH THE PROCEDURES IN THE BK/O ON THE SUBJECT. THE ALLIED REPS SAID THIS APPEARED TO BE AN ACCEPTABLE WAY TO DEAL WITH THE MATTER AND THE FCO AND QUAI HAVE SINCE EXPRESSED APPROVAL. THE MATTER WAS DISCUSSED AGAIN AT THE BONN GROUP MEETING OF AUGUST 1, AT WHICH TIME THE FRG REP (VON BRAUNMUEHL) SAID HE WOULD PURSUE THE IDEA WITH THE MINISTRY OF INTERIOR. ON AUGUST 16, HOWEVER, HE REPORTED THAT FOLLOWING INTERNAL CONSULTATIONS, THE FRG COULD NOT ACCEPT THIS SOLUTION.

3. THE FRG, HE SAID, FELT THERE HAD TO BE A DIFFERENTIATION BETWEEN THE ELECTION ITSELF AND THE SITUATION AFTER THE ELECTION. THE FRG HAD ACCEPTED THE ALLIED DESIRE TO SET OFF THE BERLIN DEPUTIES FROM THE REST OF THE FRG CONTINGENT BY ELECTING THEM THROUGH A DIFFERENT PROCEDURE. AFTER THE ELECTION, HOWEVER, THE FRG HAD TO HAVE A FULL 81-MEMBER CONTINGENT IN THE PARLIAMENT, NOT 78 "REGULAR" AND THREE "MINOR" MEMBERS. THIS SORT OF MINORITY STIGMA WOULD CLING TO THE BERLIN DEPUTIES IF THEY WERE REPORTED WITH THE FOOTNOTE FORMAT.

4. HE SAID HE COULD UNDERSTAND THE ALLIED FEAR THAT
IF THERE WERE NO DISCERNIBLE DIFFERENCE BETWEEN BERLIN

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AND FGR MEMBERS THE SOVIETS COULD ASSERT THAT
THE ALLIES HAD NOT PROTECTED THEIR RIGHTS IN BERLIN.
THE MATTER, HOWEVER, WENT BEYOND THE BERLIN QUESTION
AND AFFECTED THE STATUS AND POSITION OF THE FRG DELEGA-
TION IN THE EP. NOTHING SHOULD ALLOW
ANYONE TO QUESTION THE FULL LEGITIMACY OF ALL 81 FRG
DEPUTIES.

5. VON BRAUNMUEHL SAID THE FRG PREFERRED REPORTING
A CONSOLIDATED LIST TO THEEPWITH
AN INTRODUCTORY SENTENCE REFERRING TO THE FRG LAW
ON EP ELECTIONS AND SPECIFICALLY TO ARTICLE 29
REGARDING SELECTION OF BERLIN MEMBERS SINCE THE
PRESIDENT OF THE BUNDESTAG, WHO WOULD BE REPORTING
THE ELECTION RESULTS, COULD NOT BE FORCED TO USE
SUCH A FORMULATION, A TACTFUL REQUEST WOULD BE IN
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ORDER. VON BRAUNMUEHL DISTRIBUTED AN ILLUSTRATIVE EXAMPLE OF A DRAFT INTRODUCTION THAT COULD BE RECOMMENDED TO THE BUNDESTAG PRESIDENT.

6. THE ALLIED BONN GROUP REPS DISCUSSED THE MATTER TRIPARTITELY ON AUGUST 24. THE US REP SAID THAT HE COULD SEE ARGUMENTS BOTH FOR AND AGAINST URGING THE FRG, IN THE BONN GROUP, TO RECONSIDER ITS DECISION. HE SAID THAT AS ARGUMENTS AGAINST TAKING THIS ACTION, WE WOULD BE DOING SOMETHING WHICH DIRECTLY OPPOSED THE BUNDESTAG POSITION AND, SINCE WE DO NOT POINT OUT TO THE SOVIETS IN DETAIL EVERY STEP WE HAVE TAKEN TO ENSURE A DISTINCTION BETWEEN THE BERLIN MEMBERS AND FRG MEMBERS IT IS DOUBTFUL THAT THE SOVIETS WOULD EVEN BE AWARE OF THE FOOTNOTE IN THE REPORT TO THE EUROPEAN PARLIAMENT. EVEN IF THEY WERE, THE SOVIETS WOULD NOT BE SATISFIED.

7. ON THE OTHER HAND, THE U.S. REP RECALLED THE CONSENSUS OF THE ALLIED REPRESENTATIVES AT THE POLITICAL DIRECTORS' MEETING ON BERLIN AT THE NATO MINISTERIAL THAT THE DISTINCTION BETWEEN BERLIN MEMBERS OF THE EP AND DIRECTLY-ELECTED REPRESENTATIVES SHOULD NOT BE ERODED OR BLURRED (REF A). HE ALSO NOTED THAT THE DEPARTMENT HAD APPROVED A DEMARCHE TO THE SENAT REGARDING STOBBE'S SUGGESTION THAT BERLIN CANDIDATES FOR THE EP SHOULD BE NOMINATED BEFORE THE NEXT LOCAL ELECTIONS IN BERLIN TO GIVE THE BERLIN VOTERS AN OPPORTUNITY TO EXPRESS THEIR PREFERENCE (REF B).

8. ON BALANCE, HE SAID THAT HE THOUGHT IT WOULD BE USEFUL TO RECOMMEND TO CAPITALS THAT WE INFORM THE FRG IN THE BONN GROUP THAT THE POLITICAL SENSITIVITY OF

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THE EP ISSUE IS SO GREAT THAT SOME VISIBLE DISTINCTION BETWEEN THE BERLIN MEMBERS OF THE EP AND THE REST SHOULD BE MAINTAINED. THERE WILL BE NO PRACTICAL DISTINCTION AT THE PRESENT TIME SINCE THE BERLIN MEMBERS HAVE THE SAME RIGHTS AS OTHERS. THE QUESTION AS TO WHAT VOTING RIGHTS THEY MAY HAVE IF AND WHEN THE EP ACQUIRES REAL GOVERNING POWERS IS A BRIDGE WE DO NOT NOW HAVE TO CROSS.

9. THE UK REP (EYERS) SAID HE SUPPORTED THE VIEWS

OF THE US REP AND THE FRENCH REP (RICHARD) DID LIKE-
WISE. RICHARD SAID THE QUAI FEARED THAT THE FRG WAS
ATTEMPTING TO DISTORT THE DISTINCTIONS BETWEEN THE
BERLIN MEMBERS AND THE OTHERS.

10. RICHARD SUGGESTED THAT WE USE AS AN ARGUMENT THE
FACT THAT THE BERLIN DECLARATION SPECIFICALLY STATES
THAT THE BERLIN HOUSE OF REPRESENTATIVES WILL ELECT
THE SEATS WHICH FALL TO BERLIN. EYERS AND THE US REP
AGREED AND EYERS SUGGESTED THAT THERE IS VALUE IN PRO-
POSING THE TEXT OF A FOOTNOTE TO THE FRG AND THAT, IN
ORDER TO TAKE ACCOUNT OF FRG SENSITIVITIES, IT MIGHT
MERELY STATE THAT THE MEMBERS SO FOOTNOTED WERE ELECTED
IN ACCORDANCE WITH THE BERLIN DECLARATION RATHER THAN
SAYING THAT THEY WERE ELECTED IN ACCORDANCE WITH THE
RELEVANT BK/O'S OR SOME OTHER METHOD.

11. FOR PURPOSES OF CONVENIENCE, AN INFORMAL TRANS-
LATION OF THE BERLIN DECLARATION (REFS, C, D, E)
FOLLOWS: "THE GOVERNMENT OF THE FRG DECLARES THAT
THE CONVENTION INTRODUCING ELECTIONS TO THE EUROPEAN
PARLIAMENT BY DIRECT UNIVERSAL SUFFRAGE ALSO APPLIES
IN LAND BERLIN.

"IN CONSIDERATION OF THE EXISTING RIGHTS AND RESPON-
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SIBILITIES OF FRANCE, THE UK AND THE US, THE BERLIN
HOUSE OF REPRESENTATIVES WILL CHOOSE THE DEPUTIES FOR
THOSE SEATS WHICH, WITHIN THE NUMBER ALLOCATED TO THE
FRG, FALL TO LAND BERLIN."

12. COMMENT: WHILE THIS IS A PARTICULARLY SENSITIVE
SUBJECT FOR CERTAIN CIRCLES IN THE FRG, AND THE FRG
HAS ALREADY CONSIDERED (AND REJECTED) THE FOOTNOTE
SUGGESTION WHICH WAS RAISED BY THE FOREIGN OFFICE REPS
IN THE BONN GROUP, WE STILL BELIEVE THAT IT WOULD BE
WORTHWHILE TO SEEK TO HAVE IT REINSTITUTED. THERE IS
NO ASSURANCE THAT THE BUNDESTAG PRESIDENT WOULD USE
THE RECOMMENDED INTRODUCTION WHEN REPORTING THE ELEC-
TION RESULTS AND THERE WOULD BE NOTHING ON THE WRITTEN
RECORD TO MAKE THE BERLIN MEMBERS DISTINGUISHABLE FROM
OTHER MEMBERS. WE DISAGREE WITH VON BRAUNMUEHL'S
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ARGUMENT THAT THE DISTINCTIONS SHOULD STOP AT THE
COMPLETION OF THE ELECTION PROCESS AND, BY ANALOGY,
THIS DISTINCTION IS NOT ERASED IN THE COMPOSITION OF
THE BUNDESTAG AND BUNDESRAT SINCE THE MEMBERS OF THOSE
BODIES ARE SHOWN TO BE FROM A GIVEN PLACE. THIS
WOULD NOT, WE UNDERSTAND, BE THE CASE IN THE EP WHERE
THE MEMBERS WOULD MERELY HAVE NATIONAL DESIGNATIONS.

13. WE DO NOT KNOW WHETHER THE FOOTNOTE IDEA IS
INCONSISTENT WITH THE TEXT OF THE BUNDESTAG COMMITTEES'
REPORT. THAT REPORT SAYS THAT, IN REPORTING THE ELEC-
TION RESULTS, THE BERLIN DEPUTIES SHOULD NOT BE
"GESONDERT" (SEPARATED OR DISTINGUISHED). DURING THE
TRIPARTITE MEETING, RICHARD CALLED VON BRAUNMUEHL TO
INQUIRE WHETHER THE REPORT MEANT ONLY THAT THE BERLIN
MEMBERS SHOULD NOT BE LISTED SEPARATELY FROM THE REST
OR WHETHER EVEN THE FOOTNOTE IDEA WOULD BE CONTRARY TO
THE RECOMMENDATION IN THE REPORT. VON BRAUNMUEHL SAID
THE USE OF "GESONDERT" IN THE CONTEXT OF THE REPORT
COULD MEAN EITHER.

14. WE CONSIDER IT IMPORTANT THAT THE DISTINCTION
BE MAINTAINED,
BELIEVE IT WORTHWHILE
TO RAISE THE MATTER AGAIN IN THE BONN GROUP.

THERE IS VALUE IN CONTINUING THE
DISTINCTION, NOT LEAST AS A CONTINUING
REMINDER TO THE FRG THAT THE BERLIN MEMBERS OF THE EP ARE
"SPECIAL" SINCE IT MAY BE NECESSARY AT SOME POINT
IN THE FUTURE TO IMPOSE RESTRICTIONS ON THEIR VOTING
RIGHTS AS IS DONE IN THE BUNDESTAG. IN VIEW OF THE
INITIAL FOREIGN OFFICE VIEWS ON THE FOOTNOTE PROPOSAL,
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WE SUSPECT THAT THERE MAY BE DIFFERENCES OF VIEW BE-
TWEEN THE FOREIGN OFFICE AND OTHER MINISTRIES ON THIS
ISSUE.

15. ACTION REQUESTED: THAT WE BE AUTHORIZED TO
INFORM THE FRG IN THE BONN GROUP THAT:

A) THE DEPARTMENT CONSIDERS THAT SOME VISIBLE
DISTINCTION SHOULD BE KEPT, IN MAKING THE REPORT OF
THE RESULTS OF THE ELECTION RESULTS TO THE EUROPEAN
PARLIAMENT, BETWEEN THE DEPUTIES FROM BERLIN AND THOSE
FROM THE FRG.

B) THAT WE DO NOT BELIEVE, IN VIEW OF THE HIGH
DEGREE OF POLITICAL SENSITIVITY CONCERNING BERLIN'S
PARTICIPATION IN THE EUROPEAN PARLIAMENT, THAT THE NEED
FOR SUCH DISTINCTION TERMINATES WHEN THE MEMBERS HAVE
BEEN SELECTED.

C) THAT THE FOOTNOTE IDEA SEEMS TO BE A REASON-
ABLE ONE AND WILL NOT RESULT IN A PHYSICAL SEPARATION
OF THE NAMES OF THE MEMBERS FROM BERLIN AND OTHERS FROM
THE FRG DELEGATION. THE SPECIAL REFERENCE WOULD BE
MINIMAL, ALBEIT VISIBLE.

D) THAT WE SUGGEST THE TEXT OF THE FOOTNOTE
REFER TO THE BERLIN DECLARATION, WHICH ITSELF NOTES
THE SPECIAL PROCEDURE OF SELECTING BERLIN DEPUTIES,
NOT TO ALLIED LAW ON THE SUBJECT. MEEHAN

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